

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT HUNTINGTON**

**OHIO VALLEY ENVIRONMENTAL
COALITION, INC.; WEST VIRGINIA
HIGHLANDS CONSERVANCY, INC.;
COAL RIVER MOUNTAIN WATCH, INC.
and SIERRA CLUB**

Plaintiffs,

v.

CIVIL ACTION NO. 3:10-cv-0836

**INDEPENDENCE COAL COMPANY, INC.
and JACKS BRANCH COAL COMPANY,**

Defendants.

**JOINT MOTION TO BIFURCATE
PENALTY ISSUES FROM REMEDY ISSUES**

As suggested by the Court in *Ohio Valley Environmental Coalition, Inc., et al. v. Coal-Mac, Inc., et al.*, Civil Action No. 3:10-cv-0833, the need for economic testimony on civil penalty issues may be unnecessarily complicated until remedies are identified for particular discharge outlets. As a result, the parties jointly ask this Court to bifurcate the presentation of evidence on the economic benefit component of any civil penalty from the remedy issues and delay presentation of the economic benefit evidence until a later date.

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CERTIFICATE OF SERVICE

I, Robert G. McLusky, do hereby certify on July 27, 2011, I electronically filed the foregoing JOINT MOTION TO BIFURCATE PENALTY ISSUES FROM REMEDY ISSUES with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Derek O. Teaney
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/s/Robert G. McLusky